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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/527,120	03/08/2005	Benno Tieke	NL 030327	3190

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EXAMINER

DINH, TAN X

ART UNIT	PAPER NUMBER
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2627

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05/08/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/527,120	Applicant(s) TIEKE ET AL.	
	Examiner TAN X. DINH	Art Unit 2627	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☐ Claim(s) ____ is/are pending in the application.
4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-8 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date ____. | 6) <input type="checkbox"/> Other: ____. |

1) This application is a **371** of PCT/IB03/03841, filed on **8/28/2003**.

Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d) or (f). The certified copy of the priority documents have been received in this National Stage Application from the International Bureau (PCT Rule 17.2(a)).

The foreign document identifies as:

EPO 02078718.0, filed on **9/11/2002**.

EPO 03100750.3, filed on **5/24/2003**.

2) The **I.D.S** filed **11/10/2005** has been considered by the Examiner. However, the Japan and/or foreign document(s), if they have not been written in English, are considered to the extent that could be understood from the English Abstract and the drawings.

Form **PTO-1449** or **PTO/SB/08** is(are) attached herein.

3) The drawings are objected to because:

a) every circuit blocks in figures 2 and 7 must be proper labeled. For example, figure 1, block 20 must be labeled as “**CONTROL UNIT**”, block 28 must be labeled as “**FORMATTER**”, block 20 must be labeled as “**CONTROL UNIT**”, etc.,.

b) The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they include the following reference character(s) not mentioned in the description: item “ 34 ” in figure 2, items “ 79 ”, “ 80 ”, “ 82 ” and “ 83 ” in figure 7; and

c) Figure 5A should be designated by a legend such as --PRIOR ART-- since only that which is old is illustrated. See MPEP § 608.02(g).

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as “amended.” If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either “Replacement Sheet” or “New Sheet” pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will

be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

4) This application does not contain an abstract of the disclosure as required by 37 CFR 1.72(b). An abstract on a separate sheet is required.

5) The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

6) (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

7) Claims 1-3 *and* 6-8 are rejected under 35 U.S.C. 102(b) as being anticipated by MONS et al (6,370,102).

MONS et al discloses a recording carrier as claimed in claim 1, comprising:

A first recording layer having a first recording stack of a first type (Fig.2, layer 6);and

a second recording layer having a second recording stack of a second type, the first recording layer being present at a position closer to the entrance face than the second recording layer and the first and second recording stack having different writing parameters (Fig.2, layer 8); and

at least one transparent spacer layer between the recording layers (Fig.2, space layer 7);

each recording layer comprising a pre-formed recording control pattern that is readable via said beam for indicating the track, and at least one recording control pattern comprising a recording stack type indicator for indicating the writing parameters of the second recording stack (Fig.3, type indicator 26. Figure 4 shows the detail of type indicator 26. See also column 5, lines 20-54).

As to claims 2 and 3, MONS et al shows the recording control pattern of the first recording layer comprises a recording stack type indicator for indicating the writing parameters of the first recording stack, and the recording control pattern of the second recording layer comprises the recording stack type indicator for indicating the writing parameters of the second recording stack (Fig.3, type indicator 26. Figure 4 shows the detail of type indicator 26. See also column 5, lines 20-54).

Claim 6 adds to *claim 1* the feature of a head for providing the beam (Fig.2, laser 11 objective lens 14), a front-end unit for generating at least one scanning signal for detecting marks in the track and for detecting the pre-formed recording control pattern (Fig.2, photo-detector 11), a demodulation unit for retrieving the recording stack type indicator from the scanning signal (demodulator is inherent in every optical disc device), and a control unit for adjusting recording parameters in the device in dependence of the recording stack type indicator retrieved from the scanning signal (Fig.2, control unit 36).

As to claim 7, MONS et al shows a control unit for adjusting a recording parameter or polarity setting of servo unit (Fig.2, control unit 36 controls servo unit 18).

As to claim 8, MONS et al shows a control unit for adjusting a recording parameter or power control procedure for recording data on the recording layer (column 5, lines 20-54).

8) The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the

subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9) This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C.103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

10) Claims 4 and 5 are rejected under 35 U.S.C. 103(a) as being unpatentable over MONS et al (6,370,102).

MONS et al discloses all the subject matter as claimed in claim 4, *except to specifically show that* the recording control pattern indicates of a polarity of a push-pull signal to be used for scanning the track. However, the technique of using push-pull signals is old and widely used in the optical recording art as admitted by applicant

in the specification, particular in figure 5A and page 4, lines 28 to page 5, line 3. Therefore, anyone of ordinary skill in the art at the time of the invention was made would have been motivated to modify the type indicator of MONS et al's (figures 3 and 4, type indicator 26) to indicate polarity of push-pull signals as claimed.

Further, it would have been obvious to use pre-groove as type indicator for indicating the position of tracks since the principle of optical recording is using pre-groove for guiding the optical pick-up travels along the tracks for reading or recording.

11) The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Applicant is reminded that in amending in response to a rejection of claims (if the rejection involves with any applicable arts), the patentable novelty must be clearly shown in view of the state of the art disclosed by the references cited and the objection made. Applicant must also show how the amendments avoid such references and objections. See 37 CFR § 1.111(c).

Form **PTO-892** is attached herein.

12) Any inquiry concerning this communication or earlier communications from the examiner should be directed to **TAN Xuan DINH**

whose telephone number is **571-272-7586**. The examiner can normally be reached on **MONDAY-FRIDAY** from **8:30AM** to **5:30PM**.

The fax phone number for the organization where this application or proceeding is assigned is **571-273-8300**.

Information regarding the status of an application may be obtained from the **Patent Application Information Retrieval (PAIR)** system. Status information for published applications may be obtained from either **Private PAIR** or **Public PAIR**. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the **Electronic Business Center (EBC)** at **866-217-9197** (toll-free).

/TAN Xuan DINH/
Primary Examiner, Art Unit 2627
May 6, 2008